

File: ACT/037/032



IN THE DISTRICT COURT OF THE UNITED STATES
IN AND FOR THE DISTRICT OF UTAH

Whirlwind Mine
NPS - Harold Ellings
Minerals Branch

CIVIL DIVISION

filed 8-2-63

UNITED STATES OF AMERICA,

Plaintiff

vs.

10,039.3 ACRES OF LAND, MORE OR
LESS, SITUATED IN KIOWA AND SAN
JUAN COUNTIES, UTAH, THE STATE
OF UTAH, ET AL.

Defendants }

CIVIL NO. C-157-63

DECLARATION

OF

TAKING

Pursuant to authority delegated on February 17, 1959 by the Secretary of the Interior under subparagraphs (6) and (7) of 210.2.2 Departmental Manual of the Department of the Interior (24 P.R. 1348) to the Solicitor of the Department of the Interior, I hereby make and cause to be filed this Declaration of Taking under Section 1 of the Act of February 26, 1931 (46 Stat. 1421, 40 U.S.C., 1958 ed., sec. 252c) and declare that:

FIRST: (a) The interests in the land hereinafter described are taken for the use of the United States under the authority of the Act of June 17, 1902, and all acts amendatory thereof or supplementary thereto (32 Stat. 323, 43 U.S.C., 1958 ed., sec. 371, et seq.); the Act of August 1, 1908 (35 Stat. 357, 40 U.S.C., 1958 ed., sec. 257); the Act of February 26, 1931 (46 Stat. 1421, 40 U.S.C., 1958 ed., secs. 258a-258e); the Act of April 11, 1956 (70 Stat. 105); and the Public Works Appropriation Act, 1963 (76 Stat. 1216).

(b) The said interests in lands have been selected by me for acquisition by the United States for use in connection with the construction, operation, and maintenance of the Glen Canyon Dam and Reservoir, Colorado River Storage Project. The said lands are required for immediate use by the Bureau of Reclamation, Department of the Interior.

(c) In my opinion it is necessary, advantageous and in the interest of the United States that said interests in lands be acquired immediately by judicial proceeding, as authorized by the acts of Congress

approved August 1, 1908 (35 Stat. 357, 40 U.S.C., 1958 ed., sec. 257), as amended and February 26, 1931 (46 Stat. 1421, 40 U.S.C., 1958 ed., secs. 258a-258c), and acts amendatory thereto or supplementary thereto.

SECOND: (a) Pursuant to law I have ascertained and selected for acquisition for the purposes set forth herein and in accordance with the foregoing acts of Congress, the fee simple title to the lands, tenements, hereditaments, and appurtenances thereto belonging, save, excepting and reserving therefrom, subject to the following conditions, all minerals in said lands, provided, that sand, stone, gravel, clay, pumice, pumicite, cinders and similar materials are not included in the term minerals, the right to prospect for and remove the gas and oil from all lands herein shall be exercised so as not to interfere with the construction, operation and maintenance of Glen Canyon Dam and Lake Powell, and all necessary precautions, as may be determined by the Secretary of the Interior, or his duly authorized representative, acting for and on behalf of the United States, shall be taken to prevent polluting or adversely affecting the quality of the water to be stored in said Lake Powell. The said land is more particularly described in the legal description attached hereto marked Exhibit A and by this reference made a part hereof, said title to be free and clear of liens and encumbrances.

(b) Plans showing the land to be taken are also attached marked Exhibits Pl through P17 and by this reference made a part hereof.

THIRD: The sum estimated by me as just compensation for the interests in the lands taken is One Hundred Eight Thousand Dollars (\$108,000.00), which sum I hereby deposit in the Registry of this Court for the use and benefit of the party or parties entitled thereto. I am of the opinion that the ultimate award for the lands probably will be within any limits prescribed by Congress as the price to be paid.

IN WITNESS WHEREOF, I have signed this Declaration of Taking on this 11th day of July, A.D. 1963, in the City of Washington, District of Columbia.

Edward Weinberg

ACTING ~~Solicitor~~, Department of the Interior

EXHIBIT A

(Kane and San Juan Counties, Utah)

State of Utah
10,039.80 Acres

All of Section Thirty-six (36), Township Forty-three (43) South, Range Three (3) East; all of Section Two (2), Township Forty-four (44) South, Range Three (3) East; all of Sections Sixteen (16), Thirty-two (32), and Thirty-six (36), Township Forty-three (43) South, Range Four (4) East; all of Section Two (2), Township Forty-four (44) South, Range Four (4) East; all of Sections Two (2), Sixteen (16), and Thirty-two (32), and the North Half of the Northeast Quarter ($N\frac{1}{2}NE\frac{1}{4}$), the Southwest Quarter of the Northeast Quarter ($SW\frac{1}{4}NE\frac{1}{4}$), and the Northwest Quarter ($NW\frac{1}{4}$) of Section Thirty-six (36), Township Forty-three (43) South, Range Five (5) East; all of Sections Two (2) and Sixteen (16), Township Forty-three (43) South, Range Six (6) East; all of Sections Two (2), Sixteen (16), and Thirty-six (36), Township Thirty-eight (38) South, Range Ten (10) East; the North Half ($N\frac{1}{2}$) and the North Half of the South Half ($N\frac{1}{2}S\frac{1}{2}$) of Section Sixteen (16), Township Forty-one (41) South, Range Twelve (12) East; the South Half ($S\frac{1}{2}$) of Section Two (2), Township Forty-one (41) South, Range Thirteen (13) East; all in the Salt Lake Base and Meridian, containing a total of Ten Thousand Thirty-nine and Eighty-hundredths (10,039.80) acres, more or less.

DESCRIPTION CERTIFIED CORRECT
BY
John L. Miller
Date
8-27-63